THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :20364 OF 2007

DATED:27-09-2007

BETWEEN:

Nargana Ramesh & 5 others.

..... PETITIONERS

AND

The District Collector,
Kakinada,
East Godavari District & another.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioners as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the respondents in issuing the alleged impugned notices under Section 7 of Act III of 1905, which are contrary to Section 7 of the Act III of 1905, of the lands in Sy.No.7/2 and 14 to an extent of Ac.0.05 cents; Ac.0.14 cents;
Ac.0.05 cents; Ac.0.03 cents; Ac.0.32 cents and Ac.0.28 cents of Devaguptam village, Allavaram mandal, East Godavari District, as illegal and arbitrary.

3. It is the case of the petitioners they have encroached small extents of the Government poramboke land in Sy.No.7/2 and 14 situated at Devaguptam village, Allavaram mandal, East Godavari District and they also made a representation, dated 15-09-2007, requesting the authorities to assign the said land in their favour. While so, the Tahsildar, Allavaram issued notices under Section 7 of the Land Encroachment Act 1905 (for brevity, 'the Act') as to why they shall not be removed from the Government land. It is stated that the said notice does not satisfy that it is a show cause notice and no period has been mentioned to submit explanation and therefore it cannot be said that it is a show cause notice as contemplated under Section 7 of the Act, but it is a final order.

4. I am unable to accept the said contention as admittedly it is a show cause notice, but the period to submit explanation has not been mentioned in the said show cause notice. Therefore, I am of the opinion that the 2nd respondent ought to have mentioned the period in which the petitioners have to file their explanation. Accordingly, petitioners are permitted to file their explanation within ten days from the date of receipt of a copy of this order and on submitting such explanation 2nd respondent may conduct an enquiry and pass appropriate orders in accordance with law and till final orders are passed, *status quo* obtaining as on today with regard to the possession shall be maintained.

5. Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH,J

27th September, 2007.

Note:

Furnish C.C. of the order
by 01-10-2007.

B/o

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